

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ALLSTATE INSURANCE CO., *et al.*,<sup>1</sup>

Plaintiffs,

V.

LIGHTHOUSE LAW P.S., INC., *et al.*,

## Defendants.

Case No. C15-1976RSL

ORDER DENYING DEFENDANTS'  
MOTIONS TO DISMISS  
PLAINTIFFS' AMENDED  
COMPLAINT

This matter comes before the Court on “Defendant Lighthouse Law P.S., Inc. and Thammalaiviroj’s Motion to Dismiss Plaintiffs’ Amended Complaint.” Dkt. # 56.<sup>1</sup> Plaintiffs Allstate Insurance Co., Allstate Indemnity Co., Allstate Fire & Casualty Insurance Co., and Allstate Property and Casualty Insurance Co. (together, “Allstate”) allege that defendants Patty Thammalaiviroj, an attorney licensed in California, and Chong “Joseph” Kim, a non-lawyer residing in Washington State, created and operated a sham law firm, defendant Lighthouse Law P.S., Inc. (“Lighthouse”), for the purpose of profiting from fraudulent insurance claims.

After this Court dismissed Allstate's original complaint with leave to amend, Dkt. # 47, Allstate filed an amended complaint, Dkt. # 52, naming additional defendants and elaborating on

<sup>1</sup> Defendants Chong “Joseph” Kim and Jane Doe Kim also moved to dismiss Allstate’s amended complaint, Dkt. # 59, but on December 20, 2016, the parties stipulated to dismissal of all claims against the Kims with prejudice, Dkt. # 92. Accordingly, the Kims’ motion to dismiss is DENIED as moot.

1 the factual allegations underlying its claims. Defendants Lighthouse and Thammalaiviroj  
 2 (“Defendants”) again move to dismiss, arguing that Allstate’s amended complaint still fails to  
 3 state a claim. Having reviewed the memoranda, declarations, and exhibits submitted by the  
 4 parties, the Court finds as follows.

5 **I. Failure to State a Claim**

6 Federal pleading rules require a complaint to include “a short and plain statement of the  
 7 claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). This requirement  
 8 serves to “give the defendant fair notice of what the claim is and the grounds upon which it  
 9 rests.” Bell Atl. Corp. v. Twombly, 550 U.S. 544, 545 (2007) (internal marks and citation  
 10 omitted). Although the complaint’s factual allegations need not be detailed, they must  
 11 sufficiently state a “plausible” ground for relief. Id. at 544. “A claim has facial plausibility  
 12 when the plaintiff pleads factual content that allows the court to draw the reasonable inference  
 13 that the defendant is liable for the misconduct alleged.” Ashcroft v. Iqbal, 556 U.S. 662, 678  
 14 (2009). The plausibility standard is met when a complaint alleges “more than a sheer possibility  
 15 that a defendant has acted unlawfully.” Id. “Dismissal is proper only where there is no  
 16 cognizable legal theory or an absence of sufficient facts alleged to support a cognizable legal  
 17 theory.” Taylor v. Yee, 780 F.3d 928, 935 (9th Cir. 2015). Dismissal without leave to amend is  
 18 proper “only if it is absolutely clear that the deficiencies of the complaint could not be cured by  
 19 amendment.” Grogan v. Health Officer of Cty. of Riverside, 221 F.3d 1348 (9th Cir. 2000)  
 20 (quotation marks and citation omitted).

21 When deciding a Rule 12(b)(6) motion to dismiss, the Court may not consider any  
 22 materials other than the pleadings, Lee v. City of Los Angeles, 250 F.3d 668, 688 (9th Cir.  
 23 2001), and may disregard any materials improperly submitted, see Swedberg v. Marotzke, 339  
 24 F.3d 1139 (9th Cir. 2003). All well-pleaded allegations of material fact are accepted as true and  
 25 are construed in the light most favorable to the non-moving party. Manzarek v. St. Paul Fire &  
 26 Marine Ins. Co., 519 F.3d 1025, 1031 (9th Cir. 2008).

27 ORDER DENYING DEFENDANTS’ MOTIONS  
 28 TO DISMISS PLAINTIFFS’ AMENDED COMPLAINT - 2

1                   **A. Washington Consumer Protection Act**

2                   Allstate alleges that Defendants violated Washington's Consumer Protection Act  
 3 ("CPA"), RCW 19.86 *et seq.*, by engaging in deceptive trade practices for financial gain.  
 4 Specifically, Allstate claims that Defendants violated the CPA by "trafficking in insurance  
 5 claims" and by presenting material misrepresentations in insurance settlement demands. Dkt.  
 6 # 52, ¶¶ 78, 94. Defendants move to dismiss this claim on the grounds that Allstate's amended  
 7 complaint fails to allege a causal link between Defendants' alleged wrongdoing and Allstate's  
 8 monetary loss, and that in any event Allstate lacks standing to bring a CPA claim. Dkt. # 56 at  
 9 11-13.

10                   Washington law empowers private plaintiffs to bring CPA claims where a defendant's  
 11 bad acts cause injuries to the plaintiff and risk injury to the public. See Indoor  
 12 Billboard/Washington, Inc. v. Integra Telecom of Washington, Inc., 162 Wn.2d 59, 73 (2007).  
 13 A private CPA action may be brought by a party who is not in a consumer relationship with the  
 14 defendant, Panag v. Farmers Ins. Co. of Wash., 166 Wn.2d 27, 43-44 (2009), so long as the  
 15 plaintiff successfully pleads five elements: (1) an unfair or deceptive act or practice; (2) that  
 16 occurred in trade or commerce; (3) a public interest was implicated; (4) the plaintiff's business  
 17 or property was injured; and (5) the unfair or deceptive act caused the injury suffered, Indoor  
 18 Billboard, 162 Wn.2d at 73. The causation prong requires the defendant's act to be the  
 19 proximate cause of the plaintiff's injury, "mean[ing] a cause which in a direct sequence  
 20 unbroken by any superseding cause, produces the injury event complained of and without which  
 21 such injury event would not have happened." Schnall v. AT&T Wireless Servs., Inc., 171  
 22 Wn.2d 260, 278 (2011) (internal marks omitted) (quoting 6 Washington Practice: Washington  
 23 Pattern Jury Instructions: Civil 15.01, at 181 (5th ed. 2005)). An insurance company has  
 24 standing to bring a CPA claim against a party that submits false information in connection with  
 25 an insurance claim. State Farm Fire & Cas. Co. v. Hyunh, 92 Wn. App. 454, 458-62 (1998).

26                   Allstate has successfully pled the elements of its CPA claim. The amended complaint

1 alleges that Defendants operated a sham law firm in order to profit from insurance proceeds,  
 2 which Allstate paid as a result of Defendants' illegal solicitation of insurance claimants and  
 3 Defendants' knowing material misrepresentations (including misrepresenting a sham law firm as  
 4 a legitimate one) in its settlement demands. Dkt. # 52, ¶¶ 5, 31, 32, 33, 45–75, 77, 88, 89, 91,  
 5 92, 94. Defendants contest only the causation element, which Allstate has sufficiently pled:  
 6 Allstate's monetary loss would not have occurred absent Defendants' alleged trafficking and  
 7 misrepresentations, as Allstate would not have agreed to settle the insurance claims had it known  
 8 that the claimants were represented by a sham law firm. See Panag, 166 Wn.2d at 64.  
 9 Moreover, the facts as alleged do not suggest that Allstate's monetary loss is attributable to any  
 10 superseding cause. See Schnall, 171 Wn.2d at 278. And Washington law provides that Allstate  
 11 has standing to bring this CPA claim. See Hyunh, 92 Wn. App. at 458–62. Defendants' motion  
 12 to dismiss Allstate's CPA claim is denied.

13 **B. Common Law Fraud**

14 Allstate alleges that Defendants committed fraud by misrepresenting material facts during  
 15 the submission of settlement demands, including misrepresenting Thammalaiviroj and Kim as  
 16 Washington-licensed attorneys and Lighthouse as a legitimate law firm. Dkt. # 52, ¶¶ 96–115.  
 17 Allstate also specifically alleges that Lighthouse knowingly incorporated a chiropractor's false  
 18 billing statements into its settlement demands. Dkt. # 52, ¶ 100. Defendants move to dismiss  
 19 this claim on the grounds that Allstate's amended complaint fails to state this fraud claim against  
 20 each defendant with sufficient particularity. Dkt. # 56 at 13–17.

21 The federal rules require parties to “state with particularity the circumstances constituting  
 22 fraud or mistake.” Fed. R. Civ. P. 9(b). To satisfy that standard, a plaintiff “must set forth more  
 23 than the neutral facts necessary to identify the transaction. The plaintiff must set forth what is  
 24 false or misleading about a statement, and why it is false.” In re GlenFed, Inc. Sec. Litig., 42  
 25 F.3d 1541, 1548 (9th Cir. 1994). A fraud complaint may not “lump multiple defendants  
 26 together”; rather, a plaintiff must “differentiate [its] allegations when suing more than one

1 defendant.” Destfino v. Rieswig, 630 F.3d 952, 958 (9th Cir. 2011). Under Washington law, a  
 2 fraud claim must include: (1) representation of an existing fact; (2) materiality; (3) falsity; (4) the  
 3 speaker’s knowledge of its falsity; (5) intent of the speaker that it should be acted upon by the  
 4 plaintiff; (6) plaintiff’s ignorance of its falsity; (7) plaintiff’s reliance on the truth of the  
 5 representation; (8) plaintiff’s right to rely upon it; and (9) damages suffered by the plaintiff.  
 6 Stiley v. Block, 130 Wn.2d 486, 505 (1996).

7 Allstate’s amended complaint meets the heightened Rule 9(b) pleading standard. Where  
 8 several defendants are sued in connection with an alleged fraudulent scheme, “there is no  
 9 absolute requirement that . . . the complaint must identify *false statements* made by each and  
 10 every defendant,” as each conspirator may be performing different tasks to bring about the  
 11 desired result. Swartz v. KPMG LLP, 476 F.3d 756, 764 (9th Cir. 2007) (quoting Beltz Travel  
 12 Serv., Inc., v. Int’l Air Transp. Ass’n, 620 F.2d 1360, 1367 (9th Cir. 1980)). Rather, a plaintiff  
 13 must, at a minimum, “identify the role of each defendant in the alleged fraudulent scheme.”  
 14 Swartz, 476 F.3d at 765 (quoting Moore v. Kayport Package Express, Inc., 885 F.2d 531, 541  
 15 (9th Cir. 1989)). Allstate attributes specific misconduct to each of the named defendants, and  
 16 accordingly meets the particularity requirement of Rule 9(b).

17 As to Defendant Thammalaiviroj, the complaint alleges that Defendant Thammalaiviroj is  
 18 not licensed to practice law in Washington state, but that, together with a non-lawyer, she  
 19 formed a California law firm that held itself out to be a Washington professional corporation  
 20 doing business in King County, Washington. Dkt. # 52, ¶¶ 3, 4, 17, 47, 48, 49. Allstate further  
 21 alleges that it believed this law firm’s legal services were provided by Washington-licensed  
 22 attorneys bound by the Washington Rules of Professional Conduct, and that it relied on this  
 23 misrepresentation in making payments to the firm. Dkt. # 52, ¶¶ 97–115. The complaint also  
 24 alleges that Defendant Thammalaiviroj received over \$12,500 in profits from the law firm’s  
 25 business between 2012 and 2015. Dkt. # 52, ¶ 39, 40, 41.

26 As to Defendant Lighthouse, the complaint repeatedly alleges that the law firm operated  
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1 illegally and profited from insurance settlements that Allstate paid in reliance on the firm's  
 2 misrepresentations regarding its ownership. Dkt. # 52, ¶¶ 32, 33, 36, 43, 52, 72, 97–100.

3 The above allegations are "specific enough to give defendants notice of the particular  
 4 misconduct which is alleged." Bly-Magee v. California, 236 F.3d 1014, 1019 (9th Cir. 2001)  
 5 (quotation marks and citation omitted). Accordingly, the amended complaint states a fraud  
 6 claim against Defendants with sufficient particularity, and Defendants' motion to dismiss this  
 7 claim is denied.

8 **C. Washington Criminal Profiteering Act**

9 Allstate alleges that Defendants violated portions of Washington's Criminal Profiteering  
 10 Act under RCW 9A.82.060 by trafficking in insurance claims and by engaging in the unlawful  
 11 practice of law, and under RCW 9A.82.080 by investing illegal profits back into the illegal  
 12 enterprise. Dkt. # 52, ¶¶ 118–135. The Criminal Profiteering Act combats organized crime by  
 13 prohibiting the intentional organizing of three or more people "with the intent to engage in a  
 14 pattern of criminal profiteering activity." RCW 9A.82.060. The statute defines such a pattern as  
 15 the commission of at least three predicate offenses within a five-year period. RCW  
 16 9A.82.010(12). Listed predicate offenses include trafficking in insurance claims, as defined in  
 17 RCW 48.30A.015, and the unlawful practice of law, as defined in RCW 2.48.180. RCW  
 18 9A.82.010(4)(ee), -(ff). The statute also makes it illegal for a person to invest any proceeds from  
 19 a pattern of criminal activity in real property or in the "operation of any enterprise." RCW  
 20 9A.82.080(1)(a). The Criminal Profiteering Act includes a private right of action for a party  
 21 who sustains injury to its business or property by violations of RCW 9A.82.060 or RCW  
 22 9A.82.080. RCW 9A.82.100(1)(a). Defendants move to dismiss these claims on the grounds  
 23 that the amended complaint fails to allege sufficient facts demonstrating either trafficking or the  
 24 unlawful practice of law. Dkt. # 56 at 17–20.<sup>2</sup>

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26 <sup>2</sup> Defendants also argue that Allstate has failed to plead any facts supporting an inference of  
 intent. Dkt. # 56 at 18. But Allstate has specifically alleged intentional misrepresentation and

1 Allstate's amended complaint sufficiently alleges that a pattern of criminal profiteering  
 2 activity occurred. The complaint, taken as true, alleges that Defendants started an illegal law  
 3 firm, procured clients in an illegitimate manner, and, posing as a legitimate firm, submitted over  
 4 two hundred false claims and then profited from them. Dkt. # 52, ¶¶ 3, 5, 31–33, 37–133.<sup>3</sup> As  
 5 described below, the amended complaint plausibly alleges the predicate offenses underlying this  
 6 pattern of criminal profiteering in violation of RCW 9A.82.060.

7 **1. Insurance Trafficking**

8 The first predicate in this case, Washington's insurance trafficking statute, prohibits  
 9 service providers from knowingly accepting or making payments related to the referral of an  
 10 insurance claimant. RCW 48.30A.015. Service providers include, among other things, persons  
 11 who are involved in preparing, processing, presenting, or negotiating insurance claims. RCW  
 12 48.30A.010. Allstate's amended complaint specifically alleges that Defendants paid individuals,  
 13 some now named as defendants, to refer insurance claimants to Lighthouse, a service provider.  
 14 Dkt. # 52, ¶¶ 53–57, 63–67, 69, 88, 118, 122–24. The amended complaint sufficiently alleges  
 15 trafficking in insurance claims.

16 **2. Unlawful Practice of Law**

17 The second alleged predicate, Washington's statute governing the unlawful practice of  
 18 law, prohibits persons not licensed to practice law in Washington ("non-lawyers") from  
 19 engaging in certain activities. RCW 2.48.180. These activities preclude a non-lawyer from  
 20 holding herself out as entitled to practice law, holding an investment or ownership interest in a  
 21 business that practices law, or sharing legal fees with a Washington-licensed attorney. Id.

22 Allstate's amended complaint states a plausible claim regarding the unlawful practice of  
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24 trafficking by Defendants, Dkt. # 52, ¶¶ 118, 122, 126, and the facts alleged, taken as true, give rise to a  
 25 reasonable inference of intentional conduct. See Iqbal, 556 U.S. at 678.

26 <sup>3</sup> Moreover, unlike Allstate's original complaint, the amended complaint successfully alleges that  
 27 more than three individuals took part in Defendants' alleged scheme.

1 law. Allstate alleges that Defendant Thammalaiviroj and Mr. Kim owned Lighthouse despite  
 2 lacking Washington bar licenses. Dkt. # 52, ¶¶ 2–4, 17–19, 31, 52. Allstate also alleges that  
 3 Ms. Kim, a non-lawyer, maintained an ownership interest in Lighthouse. Dkt. # 52, ¶¶ 60, 61,  
 4 71. Those facts, taken as true, allow for a “reasonable inference” that the Defendants are liable  
 5 as alleged. Iqbal, 556 U.S. at 678. Allstate has sufficiently alleged the unlawful practice of law.

6 **3. RCW 9A.82.080**

7 Allstate claims that Defendants violated RCW 9A.82.080 by receiving profits from the  
 8 alleged pattern of criminal racketeering and then investing those profits back into the illegal  
 9 operation. Dkt. # 52, ¶ 132. Defendants argue that Allstate’s claim is too vague, Dkt. # 56 at 17,  
 10 and, absent any concrete allegations underlying this conclusory claim, the Court agrees. Still,  
 11 Allstate’s successful allegations of insurance trafficking and unlawful practice of law  
 12 sufficiently state a claim under 9A.82.060.

13 Defendants’ motion to dismiss Allstate’s Criminal Profiteering Act claim is denied.

14 **D. Unjust Enrichment**

15 Allstate’s amended complaint alleges that Defendants were unjustly enriched when  
 16 Defendants received payment from Allstate for fraudulent insurance claims. Dkt. # 52,  
 17 ¶¶ 137–44. The parties agree on the basic showing required to make an unjust enrichment claim  
 18 in Washington: (1) a benefit was conferred by the plaintiff to the defendant; (2) the benefit was  
 19 received at the plaintiff’s expense; and (3) it would be unjust for the defendant to keep the  
 20 benefit under the circumstances. Young v. Young, 164 Wn.2d 477, 484 (2008). An action for  
 21 unjust enrichment is “the method of recovery for the value of [a] benefit retained absent any  
 22 contractual relationship because notions of fairness and justice require it.” Id. Defendants claim  
 23 that the amended complaint fails to show a causal link between Defendants’ alleged misconduct  
 24 and Allstate’s monetary loss. Dkt. # 59 at 17.<sup>4</sup> As explained above, see supra Part I.A

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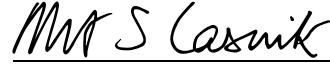
25  
 26 <sup>4</sup> Defendants also argue that the amended complaint fails to allege that Defendant  
 27 Thammalaiviroj received any of the proceeds in her personal capacity, Dkt. # 56 at 21, but the amended

1 (evaluating Allstate's claim under the Washington Consumer Protection Act), Allstate's  
2 amended complaint sufficiently alleges facts suggesting that Allstate would not have paid out  
3 over \$600,000 in insurance settlements absent Defendants' material misrepresentations.

4 Accordingly, Defendants' motion to dismiss this claim is denied.

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6 For the foregoing reasons, Defendants' motions to dismiss for failure to state a claim,  
7 Dkt. ## 56, 59, are DENIED.

8  
9 DATED this 24th day of January, 2017.

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11   
12 Robert S. Lasnik  
13 United States District Judge

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25 complaint specifically alleges that Defendant Thammalaiviroj personally received \$12,500 in profits,  
26 Dkt. # 52, ¶¶ 39–41.

27 ORDER DENYING DEFENDANTS' MOTIONS  
28 TO DISMISS PLAINTIFFS' AMENDED COMPLAINT - 9